

REMARKS

Applicant's attorney wishes to thank the Examiner for the careful consideration given to the present application. Currently, claims 1-6 and 13-16 are pending. Claims 7-12 and 17-24 have been canceled. Each of the objections and rejections set forth in the Office Action are addressed below in the order presented therein.

Request for Interference: As a courtesy, Applicant would like to remind the Examiner that U.S. Application No. 10/853,585 (Publication No. 2004/0242588) filed on May 25, 2004 by DeJovin et al. has been amended such that the '585 Application no longer claims identical subject matter. Additionally, it would appear that U.S. Application No. 11/321,093 (Publication No. 2006/0171974) filed December 29, 2005 by DeJovin et al. has also been amended such that the '093 Application no longer claims identical subject matter.

Supplemental Information Disclosure Statement: Applicant submits herewith a supplemental Information Disclosure Statement ("IDS") citing a miscellaneous e-mail communication (date unverified). The e-mail appears to have been sent to a private e-mail list server that is thought to be available only to subscribing and verified Board certified dermatologists. The e-mail was accompanied by uncaptioned photographs of patients; however, in order to avoid issues of patient confidentiality, the photographs are not provided in the IDS. If the Examiner feels it necessary, it may be possible to submit the photographs under MPEP 724.04; however, the e-mail communication on its face would appear to provide adequate disclosure. This material recently came to the attention of Applicant and is being submitted without comment at this time as to its suitability as prior art. In addition, the IDS cites an additional document to be considered by the Office. Nothing in this submission should be construed as an admission of prior art, and Applicant reserves the right to contest the same.

Specification/Corrective IDS: The Examiner has objected to the disclosure because it contains an embedded hyperlink. Applicant has resubmitted the IDS removing any embedded hyperlink in C23 and C25-31, thereby rendering the present objection moot.

35 U.S.C. § 102: The Examiner has rejected claims 1-3, 7, 13, 14 and 16 under 35 U.S.C. § 102(e) as purportedly being anticipated by U.S. Publication No. 20040242588 to DeJovin (hereinafter referred to as "DeJovin"). Applicant respectfully disagrees.

It is respectfully submitted that Dejovin is not proper prior art under 35 U.S.C. § 102(e) to the present application. In particular, the present application was filed on January 22, 2004. Dejovin was filed on May 25, 2004, which is after the filing date of the present application. Dejovin claims priority to Provisional Application No. 60/473,611 filed on May 27, 2003 (hereinafter referred to as the '611 Provisional Application"), however the '611 Provisional Application fails to disclose the subject matter relied upon by the Examiner. In particular, the '611 Provisional application fails to disclose any α_1 adrenoreceptor agonists as recited in pending claims 1-11 and 13-16. α_1 adrenoreceptor agonists include, for example, oxymetazoline, phenylephrine, tetrahydrozoline, naphazoline and xylometazoline, etc. as described in paragraph [0051] of the present application. The '611 Provisional Application only describes compounds of Formula I as described therein (see, e.g., page 2, lines 25-28 and page 3, lines 1-6 of the '611 Provisional Application), which are α_2 adrenoreceptor agonists. Formula I of the '611 Provisional Application does not encompass α_1 adrenoreceptor agonists as defined in the present specification. The α_1 adrenoreceptor agonists were not introduced until May 25, 2004 in the non-provisional application of Dejovin, which occurred after the filing date of the present application. Dejovin is not proper prior art under 35 U.S.C. § 102(e) to the present application. Accordingly, Applicant requests that this rejection be withdrawn.

35 U.S.C. § 103: The Examiner has rejected claim 15 under 35 U.S.C. § 103(a) as purportedly being unpatentable over Dejovin in view of U.S. Publication No. 20030108496 to Yu (hereinafter referred to as "Yu"). Applicant respectfully disagrees.

As discussed above, the primary reference relied upon by the Examiner, Dejovin, is not proper prior art under 35 U.S.C. § 102(e) to the present application. The secondary reference, Yu, fails to disclose or suggest the presently claimed method of treating rosacea in a subject in need of such treatment by topically administering a therapeutically or cosmetically effective amount of at least one α_1 adrenoreceptor agonist. Accordingly, Applicant requests that this rejection be withdrawn.

In light of the remarks and amendments presented herein, it is believed that pending claims 1-6 and 13-16 are in condition for final allowance and notice to such effect is respectfully requested.

CONCLUSION

Applicant has timely filed this response. In the event that an additional fee is required for this response, the Commissioner is hereby authorized to charge such fees to Deposit Account No. 50-0436.

Should the Examiner have any questions or comments, or need any additional information from Applicant's attorney, he is invited to contact the undersigned at his convenience.

Respectfully submitted,

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Dated: January 11, 2008
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